THE LEGISLATIVE ASSEMBLY OF
BRITISH COLUMBIA

ANNUAL REVIEW OF THE BUDGETS OF THE INDEPENDENT OFFICES OF THE LEGISLATIVE ASSEMBLY

SELECT STANDING COMMITTEE ON
FINANCE AND GOVERNMENT SERVICES

SECOND REPORT
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LEGISLATIVE ASSEMBLY
PROVINCE OF BRITISH COLUMBIA

December 20, 2005

To the Honourable,
Legislative Assembly of the
Province of British Columbia
Victoria, British Columbia

Honourable Members:

I have the honour to present herewith the Second Report of the Select Standing Committee on Finance and Government Services.

The Second Report covers the work of the Committee on the annual review of the budgets of the Independent Offices of the Legislative Assembly.

Respectfully submitted on behalf of the Committee,

Blair Lekstrom, MLA
Chair

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COMPOSITION OF THE COMMITTEE

MEMBERS

Blair Lekstrom	Chair	Peace River South
Maurine Karagianis	Deputy Chair	Esquimalt-Metchosin
Harry Bloy		Burquitlam
Dave S. Hayer		Surrey-Tynehead
Gordon Hogg		Surrey-White Rock
Leonard Krog		Nanaimo
Jenny Wai Ching Kwan		Vancouver-Mount Pleasant
Richard T. Lee		Burnaby North
Nicholas Simons		Powell River-Sunshine Coast
John Yap		Richmond-Steveston

CLERK TO THE COMMITTEE

Craig James, Clerk Assistant and Clerk of Committees

COMMITTEE RESEARCHERS

Josie Schofield, Research Analyst

Mary Storzer, Committee Researcher

TERMS OF REFERENCE

On September 19, 2005, the Legislative Assembly agreed that the Select Standing Committee on Finance and Government Services be empowered:

2. (a) To consider and make recommendations on the annual reports, rolling three-year service plans and budgets of the following statutory officers:

- Auditor General;
- Chief Electoral Officer;
- Conflict of Interest Commissioner;
- Information and Privacy Commissioner;
- Ombudsman;
- Police Complaint Commissioner; and,

(b) To examine, inquire into and make recommendations with respect to other matters brought to the Committee's attention by any of the Officers listed in 2(a) above.

(c) That the Select Standing Committee on Finance and Government Services be the committee referred to in sections 19, 20, 21 and 23 of the Auditor General Act and that the performance report in section 22 of the Auditor General Act be referred to the committee.

In addition to the powers previously conferred upon the Select Standing Committee on Finance and Government Services, the committee shall be empowered:

(a) to appoint of their number one or more subcommittees and refer to such subcommittees any of the matters referred to the committee;

(b) to sit during a period in which the House is adjourned and during any sitting of the House;

(c) to adjourn from place to place as may be convenient; and

(d) to retain personnel as required to assist the committee,

and shall report to the House as soon as possible, or following any adjournment or at the next following session, as the case may be, to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.

COMMITTEE PROCESS

On September 19, 2005, the Legislative Assembly instructed the Select Standing Committee on Finance and Government Services (the Finance Committee) to consider and make recommendations on the annual reports, rolling three-year service plans and budgets of the independent offices of the Auditor General, the Chief Electoral Officer, the Conflict of Interest Commissioner, the Information and Privacy Commissioner, the Ombudsman, and the Police Complaint Commissioner.

The Finance Committee was also asked by the House to examine, inquire into and make recommendations with respect to other matters brought to the Committee's attention by any of the six officers, and to carry out its statutory functions pursuant to the *Auditor General Act*.

On September 21, 2005, at the first meeting of the Finance Committee in the 38th Parliament, Blair Lekstrom, MLA, was elected as the Chair to the Committee, and Maurine Karagianis, MLA, as Deputy Chair. Two of the ten committee members had participated in the previous reviews of the budgets of the independent offices of the Legislative Assembly, a process that began in 2001.

To conduct its fifth annual review, the Finance Committee scheduled public meetings in Victoria on November 30 and December 1, 2005. Members also met on December 16, 2005 to conduct their deliberations on the content of their report to be presented to the House. Minutes and transcripts of the public meetings, as well as an electronic copy of this report, are available on the Committee's website at www.leg.bc.ca/cmt.

Schedule of Meetings

November 30, 2005	Auditor General
	Chief Electoral Officer
	Ombudsman
	Conflict of Interest Commissioner
December 1, 2005	Police Complaint Commissioner
	Information and Privacy Commissioner
December 16, 2005	Auditor General
	Deliberations

OFFICE OF THE AUDITOR GENERAL

"The resources requested in the funding proposal would allow the Office to achieve a relatively small but significant improvement in the way it supports the Legislative Assembly in its oversight role." (Wayne Strelioff, Auditor General)

Background

The independent Office of the Auditor General of British Columbia has been in existence for almost 30 years. It serves the public and their elected representatives by providing independent assessments and advice that seeks to enhance accountability and performance across the provincial public sector.

Under the *Auditor General Act*, the Auditor General is required to audit the province's annual summary financial statements. The Act also permits the Auditor General to examine whether government is operating economically, efficiently and effectively, and whether the program performance information provided to the Legislative Assembly by government is adequate.

The operating budget and capital funding for the independent Office of the Auditor General are provided for in Vote 2 of the annual *Estimates*. Last year, the Finance Committee recommended an increase of $600,000 in the voted appropriation for 2005/06 to fund the operation of the Office. The Committee anticipated that the operating budget would be maintained at $7.67 million for 2006/07 and 2007/08, and that the annual capital budget would continue to be $200,000.

Committee Review

On November 30 and December 16, 2005, the Finance Committee met to review the Office's funding proposal for the next three fiscal years. Representing the Office were Wayne Strelioff, Auditor General; Errol Price, Deputy Auditor General; and Su-Lin Shum, Director.

Funding Proposal, 2006/07

The Auditor General began his presentation by asking the Committee to consider several increases to the voted appropriation. He explained that the first increase of $1.3 million for 2006/07 has two parts: $800,000 to sustain the Office's capacity to deliver its base workplan; and $500,000 to enable a modest expansion of the plan. The additional increases proposed for 2007/08 ($600,000) and 2008/09 ($500,000) would enable the Office to continue to fund an expanded workplan.

The Committee heard that the Office wanted additional resources in order to expand its capacity to provide better service to all MLAs in carrying out their oversight role. Currently its audit work covers only a small part of the provincial public sector, where the government spends almost $41 billion a year on a wide range of initiatives, programs and services.

The Auditor General then outlined the five key challenges or risks the Office needs to manage internally in order to achieve its goals and objectives. These challenges are: credibility, independence, relevance, capacity and work environment support. The Auditor General noted that staff capacity poses probably the most pressing challenge since staff turnover has now reached an annual rate of 20 percent.

Next, the Auditor General discussed the workplan for the next three fiscal years. To develop its workplan and set priorities for the next three fiscal years, the Office had used three main "decision screens." First, it has decided to carry out its mandate through three lines of business:

- financial statement auditing (attesting to the reliability of government financial statements);
- risk audits of government programs (examining the adequacy of risk management);
- performance report assessments (assessing the quality of government performance information).

The second decision the Office made is to focus primarily on four major areas of government responsibility: education, finance, health and natural resources. The third decision, based on an environmental scan, is to gain an understanding of important issues that cut across many areas of government programs and services. The areas of focus for the next three years include: Aboriginal issues, alternative service delivery initiatives, economic cost-drivers, electronic information systems, federal-provincial impacts, human resource management issues, and sustainability issues.

The Auditor General then summarized the funding requests for the next three years. Part of the funding increase for 2006/07 ($800,000) would enable the Office to sustain the capacity to provide:

- examinations that meet the more rigorous quality assurance standards being implemented with the accounting and auditing community;
- continued financial statement coverage over the broader government reporting entity, which now includes school districts, universities, colleges and health organizations;
- additional tools and supports (such as training and development) to ensure the Office retains the skills and expertise needed to carry out the work plan; and
- more timely audits in certain risk areas (for example, information technology and social services).

In his report, the Auditor General went on to say:

> *"The second part of the funding increase I am requesting for 2006/07 ($500,000) would enable us to modestly expand our work plan to include:*
>
> - *potential reviews of government's quarterly financial reports; and*
> - *up to two additional risk audits in areas that have not received enough coverage (for example, alternative service delivery and natural resources).*
>
> *The additional funding requested for 2007/08 and 2008/09 would also be used to increase the capacity within our risk audit line of business.*
>
> *Staff capacity of the Office has not changed since 1996. Without the additional resources I need to begin to increase that capacity, I am not able to deliver a work plan that in my opinion fulfills all of the responsibilities I have as Auditor General of British Columbia."* (Funding Proposal, p. 21)

After presenting the case for a higher operating budget, the Auditor General then asked the Finance Committee to approve the basis on which the Office charges fees for the financial statement audit work it performs for government-related organizations — such as Crown

agencies, school boards, universities, colleges and health authorities. He noted that fee-for-service recoveries will decline next year to $1.94 million. The $360,000 decr[illegible] results from the decision not to continue directly auditing the British Columbia Investment Management Corporation (BCIMC), due to resource constraints. Subsequently, the Deputy Auditor General informed the Committee that the staff assigned to the BCIMC audit would be redeployed to carry out other work in the Office.

Members' Inquiry

In their response to the funding proposal, the committee members' inquiry focused on the capacity challenges facing the Office, control mechanisms and fee-for-service recoveries. Members also asked about the purpose and utilization of the annual capital budget; and the Office's examination of B.C. Ferry Services Inc.

Capacity Challenges

The Committee inquired whether the staff turnover has increased recently. In response, the Auditor General explained that the loss of 12 senior people in the past four years — due to early retirement in most cases — posed a significant challenge. He noted that an increase in the annual operating budget would enable the Office to develop and maintain the Office's technical capacity from year to year via the recruitment and retention of experienced staff.

Members also asked about the scope of the risk audits of government programs — in particular, whether the workplan included capital construction projects, which are prone to potential cost overruns. They learned that the Office does not have the capacity to carry out extensive direct examinations of how specific capital construction projects are managed. Instead, the main focus of its risk audit work in this area is trying to ensure that government reports its plans and its performance in a robust way.

The Auditor General then informed the Committee that in the case of the 2010 Winter Olympics, an update on the Office's January 2003 review of the Olympic bid is part of the workplan for the current fiscal year. However, future Olympic updates and other plans are contingent on securing additional resources — including plans to do financial statement audits related to the government's quarterly financial reports and to examine the accuracy of information in service plan reports.

On a related matter, the Auditor General was asked whether any external reference points were used in the priority-setting process — for example, if audit offices in other jurisdictions have criteria or standard tests to determine the hierarchy of work. After learning that there are no benchmarks — other than comparative funding statistics — Members asked what maintenance of the baseline workplan would involve, as distinct from the expanded plan that would include new projects.

Control Mechanisms

During the committee review, Members commented on the absence of an internal audit program in the Office. In response, the Auditor General stated that the size of the Office (88 FTEs) does not justify an internal audit group, but that different kinds of mechanisms are used to make sure that the staff is doing the best possible job. These mechanisms include

designated staff responsibilities for quality control and professional practice, the proposed independent audit of the Office's annual performance report, and reviews of selected audits by the B.C. Institute of Chartered Accountants.

Fee-for-service Recoveries

Another theme of the Members' inquiry focused on the recoveries portion of the proposed budget, which provides revenue for the Office separate from the voted appropriation. In its terms of reference, the Finance Committee is instructed by the House to approve the basis on which the Auditor General may charge fees for audit services, pursuant to section 20 of the *Auditor General Act*.

Members' specific questions on fee-for-service recoveries focused on how often the Office reviewed its charge-outs, and what the rationale is for the policy of setting fees for audit services "...at market or rates set to recover costs, whichever is lower." (Funding Proposal, p. 20, note 2)

In response, the Auditor General explained that the fees for financial statement audits of government organizations are reviewed every year with board audit committees, and that the trend is for annual increases in audit fees to cover higher costs. While the Office's charge-out philosophy is to recover costs, the choice between cost-recovery or market rates depends on the circumstances — in some cases, the audit fees are higher than market rates; in other situations, they are about the same; and sometimes, they are lower. From the Auditor General's perspective, future expansion of fee-for-service work was not feasible or desirable since charging fees places senior staff in the awkward position of working for the management of the various organizations rather than for legislators.

Recommendations

The Committee recommends that:

- **The annual appropriation for the operation of the Office of the Auditor General be increased to $8,470,000 in 2006/07.**
- **The annual operating budget be set at $8,470,000 for 2007/08 and for 2008/09 for financial planning purposes only, since the Committee plans to review the Office's core funding with the new Auditor General next year.**
- **The Office of the Auditor General continue to receive an annual appropriation of $200,000 to fund capital expenditures in each of the next three fiscal years.**

Committee Decision

- **The Auditor General may continue to charge fees, on a cost-recovery basis, that are estimated to be $1,940,000 in each of the next three fiscal years.**

Other Matters

Appointment of an independent auditor for the Office of the Auditor General

The terms of reference, adopted by the House on September 19, 2005, identify the Finance Committee as the committee referred to in section 23 of the *Auditor General Act*. Section

23(2) specifies that during the first session of the 38th Parliament, the committee must appoint an independent auditor to audit the financial statements of the Auditor General for each of the fiscal years to be completed during the term of the Parliament. The auditor may also audit the appropriateness and reliability of the performance information contained in the annual report of the Auditor General.

To appoint an independent auditor, a subcommittee was established consisting of Blair Lekstrom (Chair), Maurine Karagianis (Deputy Chair) and John Yap, MLA. The subcommittee met on October 25, 2005 with the Clerk Assistant and Clerk of Committees to establish the process and criteria for selecting an independent auditor. On November 3, 2005, a Request for Proposal (RFP) was posted on the Finance Committee and BC Bid websites, and newspaper ads were placed. Accountants' professional organizations in B.C. were also notified.

Three proposals to provide audit services were received by the due date (November 21, 2005). The subcommittee evaluated the bids on November 30, 2005 and reported that day to the Finance Committee. On December 1, 2005, the Committee publicly announced its decision.

Committee Decision

Pursuant to section 23(2) of the *Auditor General Act*, the Committee appoints Grant Thornton LLP of Victoria as the independent auditor of the financial statements and performance information of the Office of the Auditor General of British Columbia for the fiscal years ending on 31 March 2006, 31 March 2007, 31 March 2008, and 31 March 2009.

OFFICE OF THE CONFLICT OF INTEREST COMMISSIONER

"We conduct one of the leanest, if not meanest, operations of government.... Our budget request of $321,000 is sufficient for our efficient daily operation as long as we're not forced to embark on a formal investigation." (H.A.D. Oliver, QC, Conflict of Interest Commissioner)

Background

The independent Office of the Conflict of Interest Commissioner was established in 1990 to assist the Commissioner with achieving the goal of improving and maintaining public confidence in the provincial government, as well as promoting the integrity and impartiality of the Members of the Legislative Assembly. Unlike other statutory officers, the Commissioner performs his duties on a part-time basis, with the assistance of two FTEs.

The Conflict of Interest Commissioner performs three separate but related roles. First, the Commissioner acts as an adviser to Members of the Legislative Assembly. Secondly, the Commissioner meets annually with each MLA to review the disclosure of the Member's interests and general obligations imposed by the Act. Thirdly, the Commissioner undertakes inquiries into alleged contraventions of the *Members' Conflict of Interest Act* and upon request, gives an opinion respecting compliance with the Act. Upon completion of the investigation, the Commissioner reports to the Legislative Assembly and where there is substance to the allegations, recommends a suitable penalty.

In addition, the Office engages in public education activities, and maintains contact with a variety of ethics offices and standards-of-conduct commissions in other parts of the world for the mutual exchange of information and experiences.

The operating budget and capital funding for the independent Office of the Conflict of Interest Commissioner are provided for in Vote 3 of the annual *Estimates*. Last year, the Finance Committee anticipated that the operating budget would be maintained at $292,000 for 2006/07 and 2007/08.

Committee Review

On November 30, 2005, the Committee met to review the Office's budget proposal for the next three fiscal years. Representing the Office was H.A.D. Oliver, QC, the province's Conflict of Interest Commissioner.

Budget Proposal, 2006/07 - 2008/09

The Conflict of Interest Commissioner began his presentation by updating the Committee on the status of his budget for the current fiscal year. While he anticipated coming in well under budget, he reminded the Committee that the Office's operating costs are demand-driven and, therefore, sufficient only if no formal investigations need to be conducted.

The Commissioner also noted that his remuneration is based by statute on that of the Chief Judge of the Provincial Court, and a scheduled increase has been approved. This accounts for the $29,000 increase in the annual operating budget (to $321,000 for each of the next three fiscal years). He explained that the Office is also facing the prospect of having to either purchase or share use of copying and shredding equipment with another Assembly branch, when the Office of the Legislative Comptroller moves into new space.

Members' Inquiry

Committee members asked for clarification about any foreseeable increases in the Office's expenditures over the next couple of years. In response, the Commissioner anticipated the possibility of staff salary increases, stating that the general practice is to follow in the footsteps of the public service.

Recommendation

The Committee recommends that:

- **The annual budget for the operation of the Office of the Conflict of Interest Commissioner be $321,000 in each of the next three fiscal years.**

ELECTIONS BC

"The Throne Speech has made it very clear that we need a new baseline budget.... However, until we've done the research and planning we propose to do in the next year, we can't even really guess at what our ongoing funding requirements are going to be."
(Harry Neufeld, Chief Electoral Officer)

Background

Elections BC has been an independent office of the Legislative Assembly since 1995. It is headed by the Chief Electoral Officer, whose mandate is to administer the provincial electoral process in accordance with the *Election Act, Recall and Initiative Act, Referendum Act,* and *Constitutional Amendment Approval Act.* The office's specific activities related to fair and impartial electoral administration include: voter registration, provincial voters list maintenance, address and electoral boundary maintenance, and voter education regarding voter registration and the electoral process.

The operating budget and capital funding for Elections BC are provided for in Vote 4 of the annual *Estimates.* Last year, the Finance Committee recommended an allocation of $25 million for events related to the May 2005 provincial general election. It anticipated that the ongoing operating budget would be maintained at $6.508 million for 2006/07 and 2007/08, and that the annual capital budget would be $2.92 million in 2006/07 and $1.875 million in 2007/08.

Committee Review

On November 30, 2005, the Finance Committee met to review Elections BC's budget proposal for the next fiscal year. Representing the office were Harry Neufeld, Chief Electoral Officer; Linda Johnson, Deputy Chief Electoral Officer; and M. Nola Western, Director of Electoral Finance.

Budget Proposal, 2006/07

The Chief Electoral Officer began his presentation by informing the Committee that the office was in the process of wrapping up activities related to the May 17, 2005 provincial general election and the electoral reform referendum. The report to the Legislative Assembly would be ready by the end of the current fiscal year and will contain the proceedings, results and costs of these electoral events.

Turning to other matters, he stated that during the past two months, the senior management team has been engaged in an analysis of the far-reaching impacts of four commitments made in the September 12, 2005 Speech from the Throne:

- A new Electoral Boundaries Commission to report on electoral redistribution under both the current electoral system and the single transferable vote (STV) model by the spring of 2008.

- A province-wide referendum on the two electoral options to be held in tandem with the November 2008 municipal elections.
- A province-wide enumeration of voters prior to the May 12, 2009 provincial general election.
- Advance preparation of two different sets of rules for the conduct of the 2009 election (single-member-plurality system or multi-member STV system).

As the mandated events in the Throne Speech have significant implications for the future budgets and workload of Elections BC, the Chief Electoral Officer reported that the office was unable to provide the Finance Committee with three-year spending estimates. He stressed that a great deal of research, planning and legislative development will be necessary before the office will be able to provide accurate estimates of the impact on its core annual operating budget beyond 2006/07, as well as on its planned event funding.

To fund this important preparatory work, Elections BC requested additional resources of $2.94 million in 2006/07. From the Chief Electoral Officer's perspective, this amount represents less than 5 percent of the minimum funding scenario associated with preparing and delivering the scheduled boundary redistribution, referendum, enumeration and general election.

The Deputy Chief Electoral Officer outlined the fiscal implications of the event-related priorities for the coming year. She indicated that the eight items identified for 2006/07 focus on research and planning in order to lay the groundwork for the preparation and delivery of the mandated events:

2006/07 Funding Requirements for 2005 Throne Speech Mandated Events

	$
1. Single transferable vote legislative framework	250,000
2. Referendum on electoral reform legislative framework	60,000
3. Single transferable vote implementation plan	1,000,000
4. Single transferable vote public education plan	150,000
5. Referendum plan	80,000
6. Enumeration plan	140,000
7. Electoral boundary redistribution plan & data preparation	680,000
8. Electoral management plan	580,000
	2,940,000

Regarding the ongoing operating budget, the Director of Finance reported that Elections BC was seeking no increase in the funding level for base operations ($6.508 million) in the next fiscal year. She noted that the only significant change from last year is the reallocation of amortization dollars to salaries and benefits. Through this reallocation, Elections BC planned to create eight additional staff positions (increasing its FTE count from 30 to 38) to fill "fundamental gaps" in the organization.

Members' Inquiry

In their response to the budget proposal, the committee members' inquiry focused on the proposed operating budget and the office's request for planned event funding. Members also asked about STV implementation processes in other jurisdictions; the logistics of holding the electoral reform referendum in tandem with the 2008 municipal elections; the length of prep time for a provincial general election; the cost and time frame of previous boundary redistributions; the potential use of e-voting in STV elections; and the verification of the citizenship requirement for voter registration.

Operating Budget

Members commented on the absence of a rationale in the 2006/07 Budget Proposal of what Elections BC must have to maintain the status quo, or to improve its operations on an ongoing basis. In response, the Chief Electoral Officer explained that the base level of $6.508 million reflects the essentials the office needs for its ongoing operating costs. On a related topic, the office was asked to consider developing a three-year budget plan identifying both the real and unknown expenses of electoral administration.

In regard to line items, Members noted the 33 percent increase in salaries and benefits planned for 2006/07 and asked for information on what the average salary of the 8 new FTEs would be. In response, the Director of Finance reported that the average is estimated to be $55,000 to $60,000, but the two office administrative support positions would be at the low end of the pay scale while the salary of the director of strategic planning and partnerships would be at the upper end.

Clarification was also sought on why the amortization costs for 2006/07 are lower in the budget proposal ($716,000) than the amortization costs forecast in the service plan ($1.13 million). The Chief Electoral Officer explained that the reduction for amortization costs in 2006/07 was a result of "a technological breakthrough" that occurred after the publication of the service plan in May 2005. Elections BC discovered that instead of having to replace its existing operating system, there was a migration path to a newer version. For 2006/07, the office plans to use the surplus money arising from lower amortization costs to hire more staff, but it will not know until next year what the amortization costs down the road might be — the amount will depend on whether the office needs to invest $5 million or $50 million in new computer systems for the delivery of the planned events.

Planned Event Funding

Another theme of the Members' inquiry focused on the 2006/07 funding requirements for planned events announced in the 2005 Throne Speech. The Committee asked how the overall budget of $2.94 million for the one-year research project was determined and whether it was likely to be revised. In response, the Deputy Chief Electoral Officer stated that the office had looked at its past experience with implementing new programs (e.g. online voter registration system) and had also identified where the gaps are in existing research on the STV system. In her opinion, the proposed budget will provide adequate funding to enable the office to obtain the information it requires.

Members also inquired whether the eight items on the list of funding requirements can be prioritized in some way, by identifying which projects really have to be done over the next year and which could be delayed another year. They were informed that all the research and planning work has to be completed in 2006/07, due to time and resource constraints.

Elections BC was also asked whether any of the work of the Citizens Assembly can be incorporated into the proposed research project, instead of reinventing the wheel. In response, the Deputy Electoral Officer reported that the Assembly's mandate and work did not focus on the legislative framework and STV implementation plan. Some Assembly information materials (e.g. animations re how votes are translated into seats) could be recycled as elements in a public education program.

In regard to the STV public education plan, Members asked whether it will result in the capacity to educate in different language groups. They were informed that if Elections BC were required to implement a new electoral system, the office would follow the program model already in place of translating its information brochures into 16 different languages.

Recommendations

The Committee recommends that:

- **The total budget for the operation of Elections BC be $9,448,000 in 2006/07, with $6,508,000 allocated for ongoing expenses and $2,940,000 for 2005 Throne Speech mandated events.**
- **The annual operating budget of Elections BC be set at $6,508,000 for 2007/08 and for 2008/09 for financial planning purposes only.**
- **Elections BC receive a capital budget of $830,000 in 2006/07, with subsequent capital expenditures for 2007/08 and 2008/09 to be determined by the Committee next year.**

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

"Bearing in mind what I would readily describe as significant increases in the demand for our services...I would ask the Committee to recommend the funding increase of $266,000 so that we can ensure that we do the best possible job to serve the citizens of British Columbia." (David Loukidelis, Information and Privacy Commissioner)

Background

Established in 1993, the independent Office of the Information and Privacy Commissioner monitors and enforces the *Freedom of Information and Protection of Privacy Act* (FIPPA), the *Personal Information Protection Act* (PIPA) and the *Lobbyists Registration Act*. The specific duties of the Commissioner's staff (16 FTEs) include: conducting reviews of access to information requests, investigating complaints, monitoring general compliance with the legislation, promoting freedom of information and protection of privacy principles, and educating the public about access and privacy rights.

The operating budget and capital funding for the independent Office of the Information and Privacy Commissioner are provided for in Vote 5 of the annual *Estimates*. Last year, the Finance Committee recommended an increase in the operating budget to $2.211 million for 2005/06 and anticipated that the Office's operating expenses would remain the same for 2006/07 and 2007/08, and that the annual capital budget would continue to be $30,000.

Committee Review

On December 1, 2005, the Committee met to review the Office's budget submission for the next three fiscal years. Representing the Office were David Loukidelis, the province's Information and Privacy Commissioner, and Lanny Hubbard, Director of Corporate Services.

Budget Submission, Fiscal years 2006/07 - 2008/09

After briefly outlining the work of the Office, the Information and Privacy Commissioner turned to the specifics of the budget submission. The Commissioner requested a $266,000 increase in the operating budget (to $2.477 million) for each of the next three fiscal years to enable the Office to meet its statutory responsibilities. He explained the requested amount would allow the Office to hire additional staff (3 FTEs) to deal with the significant increases in the demand for its services.

The Commissioner reported that in the first ten months of 2005, the Office experienced a 24 percent increase in new files under the province's public sector access and privacy law (FIPPA) and the broad private sector privacy law (PIPA), as compared to the same period in 2004. He also expressed concern that at the end of 2004/05 the Office had a significant backlog of 189 cases.

The Committee learned that part of the increased funding would permit the hiring of two portfolio officers to deal with the backlog, plus one other full-time staff member to ensure that the Office fulfills its mandate to inform the public about access and privacy rights, and to

assist public and private sector organizations in meeting the challenges of compliance. From the Commissioner's perspective, a proactive approach is cost-efficient, since it generally addresses problems before they turn into specific disputes that must be mediated or adjudicated.

The Commissioner also noted that the proposed budget assumes that the existing arrangement for shared office space and administrative, finance and IT support services with the offices of the Ombudsman and the Police Complaint Commissioner will continue for the next three fiscal years.

Members' Inquiry

The committee members' inquiry focused on the request for additional resources and the office caseload. Members also asked about the existing fee structure; the costs and benefits of systemic audits of the information practices of public bodies; and the lack of public access to information held by the Vancouver Organizing Committee for the 2010 Winter Olympics.

Additional Resources

Members requested clarification regarding the accuracy of the budget projections for 2008/09. The Commissioner explained that if the demand for the Office's services continued to increase, he would ask the Finance Committee for more money at that time. In addition, it was pointed out that the budget projections do not include any impact on staff salaries of a general wage increase for the public service. Members also asked about the change in employee benefits in the 2006/07 budget.

Office Caseload

Another theme of the Members' inquiry related to how the office caseload — particularly regarding the PIPA — compares to other Canadian jurisdictions in terms of the number of complaints per capita. The Information and Privacy Commissioner reported that B.C. has a considerably greater number of complaints than Alberta, under both the private and public sector laws. Furthermore, in B.C., 32 percent of all requests for review and complaints under the PIPA are in the health sector.

Members also inquired as to whether the budget proposal addresses the concern around delays in access to information requests. The Commissioner replied that at present each portfolio officer has an average caseload of 54 cases at any given time, which is an all time high for the office. He believes that with the addition of two portfolio officers, the Office would be able to meet the demand for the Office's services, including access to information requests, in a timely manner.

Recommendations

The Committee recommends that:

- **The annual appropriation for the operation of the Office of the Information and Privacy Commissioner be increased to $2,477,000 in each of the next three fiscal years.**

- **The Office of the Information and Privacy Commissioner continue to receive an annual capital budget of $30,000 in each of the next three fiscal years.**

OFFICE OF THE OMBUDSMAN

"We cut our budgets in an incremental way, and now we're moving back into a situation where, I think, the $3.693 million would allow us to do the work of the Office."
(Howard Kushner, Ombudsman)

Background

The independent Office of the Ombudsman has been in existence since 1979. Its mandate is defined in the *Ombudsman Act*, which gives the Ombudsman the authority to conduct independent, impartial and confidential investigations to determine if the actions and decisions of government bodies are fair, reasonable, and consistent with relevant legislation, policies and procedures.

In British Columbia, the jurisdiction of the Ombudsman is extensive, covering not only traditional government organizations (ministries, Crown agencies) but also the broader public sector (local government, school districts, colleges, universities, hospitals, health authorities) and self-regulating professions. The Office employs 34 FTEs to investigate complaints of administrative unfairness, and to raise the public profile and improve external understanding of the role of the Ombudsman.

The operating budget and capital funding for the independent Office of the Ombudsman are provided for in Vote 6 of the annual *Estimates*. Last year, the Finance Committee recommended that the Office's operating budget for 2005/06 be $3.388 million (including a one-time increase of $224,000). For financial planning purposes, it set the operating budget at $3.164 million for 2006/07 and 2007/08, and anticipated that the annual capital budget would continue to be $65,000.

Committee Review

On November 30, 2005, the Committee met to review the Office's budget submission for the next three fiscal years. Representing the Office were Howard Kushner, the province's Ombudsman, and Lanny Hubbard, Director of Corporate Services.

Budget Submission, Fiscal 2007-2009

The Ombudsman began his presentation by briefly outlining the role and jurisdiction of the Office. He then presented a short overview of the activities over the past year. There were 342 open files at the end of September 2005, and over 70 files are currently in the holding queue for complaints about local government and self-regulated professions. He reported that the holding queue for schools, hospitals and universities has been cleared by the investigators hired this year.

The Ombudsman then noted the usefulness of the annual practice of travelling to other areas of the province to set up temporary mini-intake offices. He also brought to the Committee's attention that the Office has entered into an agreement with the Alberta Ombudsman office for the lease and maintenance of the case-tracker system developed in B.C.

Regarding future budgets, the Ombudsman requested an increase of $50,000 in the Office's base funding ($3.164 million) for the continuation of the Office's popular mobile intake pilot project. He reported that, as of the end of September, the number of people accessing the Office through the project's six sites in the lower mainland has exceeded the number who accessed the Vancouver office prior to its closure. The Ombudsman noted that the experiment with the mobile intake project is now being tested on Vancouver Island.

In addition, the Ombudsman asked that the one-time increase of $189,000 for the hiring of two investigators (approved for 2005/06) be added to the Office's base budget for 2006/07. He explained that these additional staff resources would mean the permanent removal of the schools, hospitals and universities holding queue. In addition, he requested $189,000 for two additional, permanent investigators to enable the Office to clear the backlog of complaints related to local government and self-regulated professions.

Other specific requests were for an additional $101,000 to cover the scheduled salary increase for the Ombudsman ($58,000), the net cost of an additional systems person ($5,000), and general operating costs ($38,000). In summary, for the next three fiscal years, the Ombudsman requested a base operating budget of $3.693 million be approved.

Members' Inquiry

In their response to the budget submission, the committee members' inquiry focused on the Office's request for additional resources. Members also asked about the recent suspension of the Ombudsman's review of provincial child protection practices, and inquired whether the Office's case-tracker system could help MLAs with their constituency work.

Additional Resources

The Committee asked for more information about the allocation of additional staff resources. The Ombudsman explained that the proposed hiring of four permanent investigators would allow the Office to deal with the backlog of files and to investigate in a timely fashion all of the complaints that come under the Office's jurisdiction.

On a related matter, committee members learned that the Office does not have a specific allocation in its operating budget for systemic reviews. They were informed by the Ombudsman that one way of conducting such reviews would be to create a mechanism by which statutory officers could collaborate on a joint review and recommend policy changes.

In response to a request for clarification regarding the Office's budget requests for future fiscal years, the Ombudsman assured the committee members that the amount requested for the next three years would allow the Office to perform the work it is required to do.

Recommendations

The Committee recommends that:

- **The annual appropriation for the operation of the Office of the Ombudsman be $3,693,000 in 2006/07, including a one-time increase of $189,000 for two additional investigators and a contribution of $5,000 towards hiring a systems person.**

- **The Office's annual operating budget be set at $3,504,000 in 2007/08 and in 2008/09 for financial planning purposes.**
- **The Office of the Ombudsman continue to receive an annual capital budget of $65,000 in each of the next three fiscal years.**

OFFICE OF THE POLICE COMPLAINT COMMISSIONER

"In essence, I am requesting that the present funding level for last year be maintained with only minimal increases to reflect anticipated increased costs for core services." (Dirk Ryneveld, QC, Police Complaint Commissioner)

Background

The independent Office of the Police Complaint Commissioner was established in July 1998, under Part 9 of the *Police Act*, which sets out the powers and duties of the Commissioner. The mandate of the Police Complaint Commissioner is to ensure that investigations into complaints about B.C.'s 11 municipal police departments and other law enforcement agencies are handled fairly and impartially.

The Office does not make findings on the validity of complaints but rather monitors how law enforcement agencies investigate those complaints. Complainants dissatisfied with the findings of an investigation may appeal to the Commissioner. The Commissioner may order a public hearing before an adjudicator if it is in the public interest. Once a decision has been reached at the public hearing, the only avenue of appeal available is to the BC Court of Appeal on questions of law only.

The operating budget and capital funding for the independent Office of the Police Complaint Commissioner are provided for in Vote 7 of the annual *Estimates*. Last year, the Finance Committee recommended that the operating budget for 2005/06 be $1.29 million (including a one-time increase of $150,000). For financial planning purposes, it set the operating budget at $1.14 million for 2006/07 and 2007/08, and anticipated no change in the annual capital budget ($25,000).

Committee Review

On December 1, 2005, the Finance Committee met to review the Office's budget submission for the next three fiscal years. Representing the Office were Dirk Ryneveld, QC, the province's Police Complaint Commissioner, and Lanny Hubbard, Director of Corporate Services.

Budget Submission, Fiscal 2007 - 2009

The Police Complaint Commissioner began his presentation by stating that it is imperative to maintain the division between the Office's administrative budget and the dedicated funding for hearing and legal costs ($100,000 first approved last year). He then reported that the Office's budget submission contains a request for a minimal amount of additional funding ($132,000) for the next three fiscal years. The proposed sum of $1.422 million includes a $67,000 increase in core operating expenses and would enable the Office to maintain a staff of 7 FTEs.

The Commissioner then updated the Committee on staffing developments during the current fiscal year. He reported that there had been a delay in the hiring of an investigative analyst for the Vancouver office, but the process has recently concluded. In addition, the Commissioner had to find a replacement for the Commission Counsel/Deputy Commissioner, who took a leave of absence in July to prosecute war criminals in Kosovo. Counsel will be hired on an ad hoc basis to conduct public hearings, as required, and a senior staff member has been appointed to act as the Deputy Commissioner.

Regarding the pilot mediation project, the Police Complaint Commissioner reported that the Office is using the $50,000 seed money (approved last year) to study mediation programs in other parts of Canada and the U.S. and to develop a similar model for use in B.C. To date, $5,000 has been spent to sponsor a training seminar at the Justice Institute of BC, and the balance will be used to hire trained mediators and conduct the pilot project.

Besides promotion of mediation services, an outreach campaign is planned to inform all British Columbians about the role of the Office and how the public can access its various services. Since the current operating budget does not make provision for the advertising of new programs or for the translation of information pamphlets and the official complaint form into different languages, the Office requires an additional $50,000 to implement the new outreach and translation initiatives.

Lastly, the Police Complaint Commissioner reported that in June 2004, he was re-elected President of the Canadian Association of Civilian Oversight of Law Enforcement (CACOLE), and that the next annual conference will be held in Vancouver in October 2006. As there are certain costs that a host province bears, the Commissioner requested $10,000 by way of a contribution to the Vancouver CACOLE Conference to ensure its success. He also asked for an additional $5,000 to enable the Office to participate in the creation of an international civilian oversight body.

Members' Inquiry

In their response to the budget submission, the committee members' inquiry focused on the office caseload, the outreach program and performance measures. Members also asked about the Pivot Legal Society complaints.

Office Caseload

Members noted that the Office's 2004 *Annual Report* (p. 28) indicates that the number of complaints has declined in the past two years — from 456 in fiscal 2003 to 372 in 2004. They were informed by the Police Complaint Commissioner that the number was higher in 2003 due in part to the 50 complaints received from the Pivot Legal Society, and that the complexity of the files in the current caseload does not justify any staff reduction. In response to a follow-up question, the Commissioner also reported that at any one time, there are about 400 to 450 open files.

The Police Complaint Commissioner was also asked what proportion of the complaints the Office receives in a given year might be suitable for the mediation process. He indicated that not all files are appropriate for mediation (e.g. sexual assault cases). Among files sent for mediation, Quebec reports an 85 percent success rate, whereas Calgary's success rate is lower.

Outreach Program

Members also asked for an update on the Office's outreach program — in particular, whether a workplan has been developed this year. In response, the Police Complaint Commissioner reported that the Office plans to offer the Justice Institute training sessions at an earlier stage so that recruits, not just police officers, learn about how the police complaint process works. Joint sessions in Vancouver with multicultural groups, as well as the new translation initiative, are also planned.

Performance Measures

The Committee also inquired whether there are additional benchmarks or qualitative criteria, besides public confidence and complaints disposition, to assess the effectiveness of the B.C. Office in relation to other jurisdictions. The Commissioner stated that there are no two systems for dealing with complaints that are identical in Canada and so a performance measurement process is difficult. He then offered to look into developing some performance measures for his next annual report.

Recommendations

The Committee recommends that:

- **The annual appropriation for the operation of the Office of the Police Complaint Commissioner be increased to $1,422,000 in each of the next three fiscal years.**
- **The Office of the Police Complaint Commissioner continue to receive an annual capital budget of $25,000 in each of the next three fiscal years.**

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